



OFFICE OF THE INSPECTOR GENERAL
US ELECTION ASSISTANCE COMMISSION
633 3RD STREET, NW, SUITE 200
WASHINGTON, DC 20001

Memorandum

To: Donald L. Palmer, Chairman
U.S. Election Assistance Commission

From: 
Mia M. Forgy
Deputy Inspector General

Date: October 13, 2021

Subject: Top Management Challenges Facing the U.S. Election Assistance Commission
Report No. I-MC-EAC-01-22

In accordance with the Reports Consolidation Act of 2000 (Public Law 106-531), the Office of Inspector General is submitting its annual statement summarizing the areas considered to be the most serious management and performance challenges facing the U.S. Election Assistance Commission (EAC). Management and performance challenges are defined as programs or management functions that are vulnerable to waste, fraud, abuse, and mismanagement and where a failure to perform well could seriously affect the ability of the EAC to achieve its mission objectives.

In FY 2020, the OIG added the COVID-19 pandemic response as a new challenge for the agency. As noted in our prior report, the EAC was able to swiftly convert to a 100% telework environment, with little preparation time, to continue carrying out its mission responsibilities during a global pandemic. The EAC has been operating within a fully virtual environment for more than a year while making strides to enhance and expand its mission programs and operations. With the continued stability of the EAC's fully remote environment and its ability to fulfill its mission functions, the OIG has removed the pandemic response as a management challenge for the EAC.

The challenges reported by the EAC OIG are based upon our audit, inspection and evaluation work, discussions with EAC management, and general knowledge of the EAC's operations. The

OIG's FY 2021 report will provide updates and identify progress made by EAC concerning the challenges reported in our prior year report.

Attachment

cc: Commissioner Thomas Hicks, Vice Chair
Commissioner Christy A. McCormick
Commissioner Benjamin W. Hovland
Executive Director, Mona Harrington
Financial Director, Paul Repak

Introduction

The Reports Consolidation Act of 2000 requires the Office of Inspector General (OIG) to report annually on what it considers to be the most serious management and performance challenges facing the U.S. Election Assistance Commission (EAC). Management challenges are derived from cross-cutting issues that arise during our regular audit, evaluation, and investigative work. They are also influenced by our general knowledge of the Agency's operations and the works of other evaluative bodies such as the Government Accountability Office (GAO).

Challenge 1: Vacancies in Key Agency Positions – Originally Issued 2019

The OIG reported this challenge in FY 2020 due to the vacancies that occurred within EAC's management structure at the start of the fiscal year. The EAC operated during the first two quarters of FY 2020 without a permanent Executive Director, General Counsel, or a director for its Grants Management Division. To ensure the continuity of the EAC operations, the Commissioners adopted a Succession Plan in early October 2019 to appoint an Acting Executive Director. A Grants Manager was hired in April 2020, and the Commissioners subsequently filled the Executive Director and General Counsel positions with permanent, full-time employees in June 2020. However, this challenge continues to be reported for FY 2021 due to vacancies in the Inspector General and Human Resource Manager positions.

Inspector General

The EAC's Commissioners have the responsibility of appointing an Inspector General (IG). The former IG's planned retirement occurred on March 31, 2021. The EAC posted an initial job announcement for the IG position in February 2021, followed by a second announcement in June 2021, with a closing date of June 2022. The IG position has been vacant for more than six months, and unlike the prior vacancy for the Executive Director position, the Commissioners have not appointed an Acting for this position.

The inaction of the Commissioners in appointing an Acting IG could potentially cause the OIG to operate without an Acting or permanent IG for over a year. Additionally, the absence of an Acting IG while there is a longstanding IG vacancy is impeding the OIG's ability to ensure the continuity of all OIG operations and its oversight responsibilities. For example, reviews of agency high-risk programs and operations are being significantly delayed because the OIG is understaffed and without an IG.

As the EAC continues to expand and enhance its programs and operations, it is critical to have an IG office with established leadership and adequate staffing to sufficiently perform the oversight responsibilities of internal agency operations and the EAC's current \$1.2 billion dollars in Help America Vote Act (HAVA) grant funding distributed to the States. To ensure the OIG can continue supporting the mission of the agency, promote efficiency and effectiveness in agency programs, and comply with all requirements and authorities of the Inspector General

Act, it is imperative that EAC's leadership makes filling the IG position a priority of the Commission.

Human Resource Manager

The EAC is currently operating without a full-time Human Resource (HR) Manager to oversee the agency's human capital objectives. The EAC's current Strategic Plan outlines its objective to "continue to build a skilled, diverse, and effective workforce that ensures the EAC has the human capital needed to achieve its mission." The Office and Personnel Management (OPM) identifies workforce planning as the foundation for managing an organization's human capital, and it furthers an agency's ability to hire qualified individuals to pursue its mission. The EAC has expanded its workforce significantly over the last year, with plans to continue enhancing its workforce talent. A dedicated and skilled HR professional is essential to ensure the agency is operating in compliance with all OPM requirements and guidance as it relates to workforce planning, hiring, and all other personnel matters.

A critical element to achieving the EAC's human capital objectives is performance management. An agency's performance management program aids in assessing the effectiveness of its workforce in accomplishing the agency's goals to meet its overall mission. The EAC has plans to implement its performance management program in fiscal year 2022. However, the agency will be implementing this program without a skilled HR Manager on board ensuring that the agency's performance management program is operating effectively and fully compliant with applicable federal regulations.

For the EAC to adequately develop and promote a robust workforce plan that supports its growth and maturation, meets its strategic objective, and ensures compliance with applicable federal requirements for Strategic Human Capital Management, the EAC requires a full-time HR Manager with the proper knowledge, skills, and abilities to carry-out these responsibilities.

Challenge 2: Elections Systems as Critical Infrastructure – Originally Issued 2017

The Department of Homeland Security (DHS) designated elections systems as critical infrastructure in January 2017, expanding the responsibilities of the EAC due to its subject matter expertise, relationships with state and local elections officials, and in-depth understanding of local election operations. The EAC played a significant role in creating and co-chairing the Executive Committee of the Government Coordinating Council with DHS to help secure and monitor the security of the nation's elections.

As the nation's clearinghouse for election administration information, EAC has taken on the challenge of supporting DHS and state and local elections administrators as a crucial partner in securing the election infrastructure. In addition to EAC's support to DHS, EAC has established priorities related to election systems that include expanding and strengthening the agency's testing and certification of voting equipment and implementing a grant program focused on

election innovation with the purpose of improving the security of voting equipment, elections systems, and voting technology. However, with limited human and financial resources the EAC struggles to balance their support to DHS, its existing mission functions, and its plans of program expansion to work towards the agency operating at its maximum capability.

Challenge 3: Records Management – Originally Issued 2010

Maintaining complete and accurate records of the operations, policies, procedures, and practices are critical to effective agency performance. Furthermore, retention of government records is mandated by federal law. Without these records, an agency cannot retain an institutional knowledge. At the time the OIG originally raised this issue as a significant challenge, EAC did not have formal documented policies and procedures for management and retention of records. The EAC has recently completed the task of documenting the history of decisions and policies of the EAC that can be traced back to the beginning of the agency. Additionally, the EAC has procured contracting services to assist in the development of agency operating policies and procedures.

Our prior year report noted that the Office of the General Counsel (OGC) was in the process of reviewing and updating the EAC's records retention schedule in accordance with law and regulations. OGC's review of EAC's records retention schedule is still in progress and standard operating procedures for the EAC's records management program are being updated.



U.S. ELECTION ASSISTANCE COMMISSION
633 3rd St. NW, Suite 200
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MEMORANDUM

DATE: November 10, 2021

To: Mia Forgy, Deputy Inspector General

From: Mona Harrington, Executive Director *Mona Harrington*

RE: Response to Inspector General's Statement Summarizing the Major Management and Performance Challenges Facing the U.S. Election Assistance Commission

The EAC concurs in part and objects in part with the top management challenges outlined by the EAC Deputy Inspector General. The EAC believes that the status of numerous findings are insufficiently or incorrectly described as many are either resolved or in process for resolution due to recent EAC activity. Additionally, the findings report lacks important context regarding the conflict of interest of the author which may have directly impacted the findings regarding vacancies.

As noted in previous management challenge findings, the EAC has been extremely underfunded over the last decade. While the agency has recently received additional funding, the agency has assumed more responsibility than ever with fewer resources. In FY 2021, the EAC received \$17,000,000 in annual funding of which \$15,500,000 was for Salaries and Expenses (S&E) and \$1,500,000 was transferred to NIST. While this represents the highest operating fund level since 2011, funding for the EAC for S&E remains below 2010 levels when factoring in inflation.¹ Despite these funding challenges, and salary caps which increase the difficulty in hiring and retaining specialized talent at the agency, the EAC utilized available resources to make significant progress towards the agency's mission of helping election officials improve the administration of elections and helping Americans participate in the voting process.

Challenge 1: Vacancies in Key Agency Positions

The EAC has taken significant actions to fill vacancies and utilize additional resources to address major concerns caused by vacancies that remain. The EAC objects to the finding related to the Inspector General Vacancy and objects in part to the characterizations regarding the HR Manager vacancy.

Inspector General Vacancy: On October 14, 2021, the EAC announced the hiring of Brianna Schletz as the next EAC Inspector General. IG Schletz brings 15 years of oversight experience to the EAC and her hiring concludes an eight-month exhaustive search for a qualified candidate to fill this essential position. Despite this announcement and Deputy IG internal knowledge of the pending hire, the Top

¹ In 2010, the EAC received \$17,900,000 of which \$14,400,000 was designated for S&E. Factoring in inflation at an average of 1.8% year over year, the 2010 S&E budget present value is \$17,400,000 which is \$1,900,000 above the FY 2021 S&E budget of \$15,500,000.

Management Challenges report discusses the vacancy at length and improperly speculates that that the agency may be without an Acting or permanent IG for over a year.

The report also states that the Commissioners' decision not to appoint Deputy IG Forgy as Acting IG is impeding the OIG's ability to conduct operations and oversight responsibilities. This is in direct contradiction to testimony Deputy IG Forgy provided to the House Committee on Oversight and Reform on April 20, 2021, where she testified "The EAC, I will say, is actively recruiting to fill that IG position. Since the IG position has been vacant, I have not currently had any issues with resources and soliciting or obtaining services for carrying out our work." Similarly, the assertion in the report regarding the impact on the agency is contrary to direct statements and reassurances made by the Deputy IG Forgy to the EAC. The EAC met with Deputy IG Forgy to continue to communicate support and understand priorities and required resources throughout the IG vacancy period. The EAC was not notified of any delays or modifications to audits required at any time as a result of the IG vacancy. Additionally, no further resources were ever requested of the agency by Deputy IG Forgy during the vacancy period.

Human Resource Manager Vacancy: The Top Management Challenges incorrectly equivocates an opening in the Human Resource Manager position with a lack of Human Resource staff at the agency. The EAC currently has an Administrative Officer Human Resources Director in a key leadership role within the agency. Additionally, the EAC currently has a staff member on the Administrative HR team and has retained the services of a prior EAC HR Manager to provide additional HR services to the agency. The Management Challenges report incorrectly implies that the current vacancy has resulted in a lack of HR support for the agency in spite of the work of these multiple staff members. This small but dedicated team has recruited and onboarded multiple staff, served the agency in building an agile and qualified workforce while navigating through the COVID-19 pandemic, and assisted in transitioning the agency through a relocation in addition to serving all staff on HR related inquiries and issues. The Human Resource Manager will provide important additional resources for the agency and will play a leadership role within the team but will be joining a team that currently provides robust services for the agency.

The report also incorrectly implies that a performance management system is being implemented without support from an HR manager. In fact, the previous EAC HR Manager has played a significant role in developing and implementing the new performance management system. The agency also hired an experienced performance management professional to train agency staff on ongoing performance management standards and the new agency specific evaluation process. While the filling of the vacancy will be an important step to completing the HR staff, EAC leadership has endeavored to contract with numerous experienced HR professionals to ensure agency staff can obtain performance reviews in a timely manner while the hiring search is conducted.

Challenge 2: Elections Systems as Critical Infrastructure

The 2021 Management Challenges report confuses the role of the EAC in relation to the Department of Homeland Security (DHS) in relation to the designation of elections as critical infrastructure. As noted in the 2020 Management Challenges report, the "EAC possessed the subject matter expertise, the relationships with state and local election officials and the in-depth understanding of local election operations to provide much-needed support to DHS in implementing that designation." As noted in 2020, the EAC was able to bolster staffing and provide additional assistance to states and voters while assisting in the implementation of the critical infrastructure designation.

As noted above, the EAC has remained underfunded. Despite this, the EAC has remained agile and has significantly expanded staffing in 2021 to provide resources to election officials on pressing and timely election administration issues. The EAC concurs with Challenge 2 to the extent that it highlights the need for additional financial and personnel resources to operate at maximum capacity.

The 2021 findings differ from the 2020 report in repeatedly and incorrectly casting EAC as functioning in support of DHS following the designation of elections as critical infrastructure. The EAC and DHS work closely in collaboration as partners both directly and in concert with other federal agencies such as the Department of Justice (DOJ), Federal Bureau of Investigations (FBI) and others, to serve election officials and the American public in protecting our voting systems. The 2021 report confuses the initial support of critical infrastructure designation with a shift in agency priorities by casting mission functions as in conflict with working in partnership with DHS. Collaboration of all essential agencies at the federal level, including EAC and DHS, is critical to the EAC's mission of serving election officials and the American public. The EAC objects to the finding of Challenge 2 to the extent that it confuses the relationship and mission of the EAC in partnership with other federal agencies including DHS.

Challenge 3: Records Management

The EAC concurs with the findings of Challenge 3 and is currently working with expert contractors to finalize the records retention schedule to enable the closing of this finding.

Conflict of Interest

The EAC believes that a critical conflict of interest must be noted in this year's Top Management Challenges report. As mentioned above, Deputy IG Forgy authored this report during the vacancy and hiring process to fill the IG position. The draft report was submitted to the agency as the final announcement of the hiring of IG Schletz was announced. In spite of the clear closing of this challenge due to the hiring, Deputy IG Forgy insisted on leaving the inaccurate claims regarding a potential year-long vacancy in the report. Additionally, the challenge portrays the vacancy as creating significant issues in conducting oversight of the agency. As noted in the response to Challenge 1, these challenges were not communicated to the agency directly during the vacancy despite numerous periods of outreach by the agency to Deputy IG Forgy nor were they indicated to Congress during Deputy IG Forgy's prior testimony.

The agency believes the refusal to close or amend the finding may be impacted by the agency's decision not to elevate Deputy IG Forgy to the Acting or Permanent Inspector General position. This clear conflict of interest is not noted in the report despite the significant impact that it could have on the findings. The EAC felt it necessary to note this real or perceived conflict due to the lack of disclosure by the report's author.